

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:02cr94

v.

Hon. Robert J. Jonker

CHARLES KEITH MOODY,

Defendant.

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**ORDER DENYING MOTION FOR SENTENCE MODIFICATION**

Before the Court is Defendant's Motion for Modification or Reduction of Sentence under 18 U.S.C. § 3582(c)(2) (docket # 100). The Sentence Modification Report prepared by the United States Probation Office indicates that Defendant Moody is ineligible for any modification because defendant's actual guideline sentencing range was determined by the career offender guideline, U.S.S.G. § 4B1.1, not the crack cocaine guideline. The career offender guideline has not been amended. The response from the government concurs (docket #107). Counsel for the defendant does not directly challenge this conclusion, but submits his client's request for immediate release from prison based on his rehabilitative work in prison (docket #106).

After reviewing the public record, the original Presentence Report, the Sentence Modification Report and the submission of the parties, the Court concludes that defendant is not eligible for a sentence reduction under Section 3582, for the reasons articulated in the Sentence Modification Report. The Court notes, as an additional matter, that the sentencing judge originally departed significantly downward from the guideline sentencing range determined under the career offender provisions, ultimately applying a sentencing range(level of offense 27, criminal history category VI) no higher than the range that would apply to defendant today under the new crack guideline (without career offender enhancement). The Court commends Mr. Moody for his work in prison programming and encourages him to take full advantage of such opportunities during the remainder of his term for the best possible chance of success on supervised release. But the work does not provide a basis for sentence reduction under Section 3582.

Accordingly,



**IT IS ORDERED** that the Motion for Modification or Reduction of Sentence (docket #55) is **DENIED** because defendant is ineligible for reduction under the retroactive crack cocaine amendments.

Under Administrative Order 08-054, the Clerk is directed to reassign this case back to the Honorable Gordon J. Quist for all further proceedings.

/s/ Robert J. Jonker  
Robert J. Jonker  
United States District Judge

Date: March 23, 2009